IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13518 of 2006

Dated: 4th July, 2006

Between:

S.Venkata Ramaiah

.. Petitioner

and

The Joint Collector,
Prakasam district, Ongole & others.

.. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13518 of 2006

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings in R.C.H/3236/01 dated 16.5.2006 issued by the second respondent and the consequential order in Rc.CS2/1622/2006 dated 26.6.2006 passed by the first respondent as illegal and arbitrary.

It is the case of the petitioner that he was appointed as a Fair

Price Shop dealer of Pothavaram village, Darsi mandal, Prakasam district in the year 1985 and since then he is distributing the essential commodities to the cardholders in the village without any complaint whatsoever either from the cardholders or from the officials. While so, the Fair Price Shop dealership of adjacent village Devavaram was entrusted temporarily to the petitioner as the permanent dealer was not being continued. There also he was distributing the commodities to the cardholders without any complaint. Surprisingly, the second respondent suspended his authorization as if he has committed irregularities in running the shop at Devavaram, which was on incharge basis. Aggrieved by the same, petitioner filed appeal before the first respondent. As the first respondent was not disposing of the appeal, he filed W.P.No25329 of 2001 before this Court and this Court disposed of the writ petition directing the first respondent to dispose of the appeal within three months and further continued the petitioner as fair price shop dealer. Accordingly, the first respondent disposed of the appeal and remanded the matter for re-consideration to the second respondent for conducting a proper enquiry into the matter. Thereafter, the second respondent issued a show cause notice to the petitioner on 20.4.2006 with the same allegations pertaining to Devavaram fair price shop, to which he was only a Inharge dealer. The petitioner submitted his explanation on 10.5.2006. The second respondent without considering the explanation and the gravity of the allegations and without considering the alleged incident happened in the year 2001, cancelled the authorisation of the petitioner by order dated 16.5.2006. Aggrieved by the same, petitioner filed appeal before the first respondent and the first respondent by order dated 26.6.2006 disposed of the appeal and remanded the matter for re-consideration and fresh disposal by the second respondent. However, while

remanding the matter, the first respondent observed that 'till four weeks, the order dated 15.3.2006 passed by Revenue Divisional Officer, Kandukur shall stand as it is'. In effect, the cancellation of fair price shop of the petitioner shall continue.

Insofar as remanding the matter is concerned, there cannot be any dispute as to the course adopted by the first respondent, but while disposing of the appeal and remanding the matter back to the second respondent, he made an observation that "till then, the orders dated 15.3.2006 of Revenue Divisional Officer, Kandukur shall stand as it is". That means cancellation continues even during the pendency of enquiry into the matter. This course adopted by the Joint Collector is unreasonable. Once he finds that the Revenue Divisional Officer has not conducted a proper enquiry, the only recourse left to the appellate authority is to set aside the order and restore the fair price shop dealership to the petitioner.

Under those circumstances, the impugned order dated 26.6.2006 passed by the first respondent to the extent of remanding the matter to the second respondent is confirmed, but insofar as the order that till four weeks, the order dated 15.3.2006 passed by Revenue Divisional Officer, Kandukur shall stand as it is, is set aside. In the result, the petitioner is entitled for restoration of the Fair Price Shop Dealership in question during the pendency of enquiry to be conducted by the second respondent.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 4.7.2006

Issue C.C. tomorrow.

B/o
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

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4.7.2006